

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

JUDGE COTE

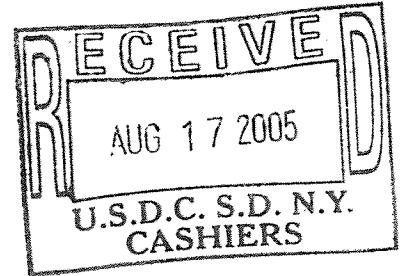
AMIKA MALEC,

Plaintiff,  
vs.

GROUP HEALTH INCORPORATED,

Defendant

**NOTICE OF REMOVAL**



Defendant Group Health Incorporated (“GHI”), by its undersigned attorney, pursuant to 28 U.S.C. §§ 1441 and 1446 submit this Notice of Removal of this action from the Civil Court of the City of New York, County of New York, in which it is currently pending, to the United States District Court Southern District of New York. In support of this Notice of Removal, defendant state the following:

1. By Summons dated July 19, 2005, plaintiff commenced civil litigation against defendant Group Health Incorporated (GHI) in the Civil Court of the City of New York, County of New York entitled “Amika Malec vs.. Group Health Incorporated.”
2. The complaint, a copy of which is attached hereto as Exhibit A, alleges, *inter alia*, medical insurance benefits. The amount of damages sought in the complaint is \$25,000.
3. Defendant GHI has not answered the plaintiff’s complaint.
4. Upon information and belief the plaintiff is seeking to recover benefits under an employee benefits plan sponsored by plaintiff’s employer through the New York State Auto Dealers Association. Such benefit plan is subject to the Employee Retirement Income Security Act of 1973 (“ERISA”), 29 U.S.C. 1001 *et seq.*
5. The causes of action which are alleged in the complaint are those for which this Court has original jurisdiction under 28 U.S.C. § 1331 since this action involves a federal question and arises under federal law.

6. By virtue of the provisions of 28 U.S.C. § 1441(a) this entire matter is one that may properly be removed to this Court.

7. A copy of this Notice of Removal will be filed with the clerk of the Civil Court of the City of New York, New York County and served upon all adverse parties as required by 28 U.S.C. §1446(d).

WHEREFORE, defendant GHI respectfully request that this case be removed from the Civil Court of the City of New York, New York County.

Dated: New York, NY  
August 16, 2005



Ted L. Wilkes, Esq.  
Attorney for Defendant  
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TO:  
Jan Ira Gellis, Esq.  
Gellis & Melinger  
137 Fifth Avenue  
New York, NY 10010

CIVIL COURT OF THE CITY OF NEW YORK  
COUNTY OF NEW YORK

-----X  
AMIKA MALEC,

Plaintiff,

-against-

GROUP HEALTH INCORPORATED,

Defendant.

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TO THE ABOVE-NAMED DEFENDANT:

**YOU ARE HEREBY SUMMONED** to appear in the Civil Court of the City of New York, County of New York at the office of the Clerk of said Court at 111 Centre Street, in the County of New York, City and State of New York, within the time provided by law as noted below and to file your answer to the annexed complaint with the Clerk; upon your failure to answer, judgment will be taken against you for the sum of \$25,000.00 with interest thereon from the 1<sup>st</sup> day of January, 2003 together with the costs and disbursements of this action.

Dated: New York, New York  
July 19, 2005

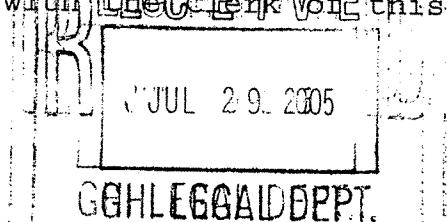
JAN IRA GELLIS  
GELLIS & MELINGER, LLP  
~~Attorneys for Plaintiff~~  
137 Fifth Avenue  
New York, New York 10010  
(212) 460-5757

Defendant's Address:  
441 9th Avenue  
New York, NY 10001

**NOTE:** The law provides that:

(a) If this summons is served by its delivery to you personally within the City of New York, you must appear and answer within **TWENTY** days after such service; or

(b) If this summons is served by delivery to any person other than you personally, or is served outside the City of New York, or by publication, or by any means other than personal delivery to you within the City of New York, you are allowed **THIRTY** days after proof of service thereof is filed with the Clerk of this Court within which to appear and answer.



CIVIL COURT OF THE CITY OF NEW YORK  
COUNTY OF NEW YORK

-----x Index No. /05  
AMIKA MALEC,

Plaintiff, COMPLAINT

-against-

GROUP HEALTH INCORPORATED,

Defendant.

1. At all times hereinafter mentioned plaintiff Amika Malec was a citizen of the State of New York.

2. At all times hereinafter mentioned defendant Group Health Incorporated was and still is a corporation licensed to conduct the business of insurance in the State of New York and providing health and medical coverage in the State of New York.

3. The claims set forth in this complaint arise out of the defendant's doing business in the City of New York.

4. For good and valuable consideration defendant provided plaintiff with a policy by which defendant agreed to reimburse plaintiff for the costs of certain health and medical expenses incurred by the plaintiff.

5. Plaintiff obtained certain health and medical treatments beginning in January 2003 and continuing to date.

6. Defendant has failed to reimburse defendant the costs of the health and medical treatments over and above any deductible amounts or amounts for which plaintiff is not otherwise entitled to reimbursement under the policy.

7. As a result plaintiff has been damaged in the sum of \$25,000.00.

WHEREFORE, plaintiff demands judgment in the sum of \$25,000.00, with interest from January 1, 2003, the costs and disbursements of this action and such other and further relief as may be just and proper under the circumstances.

Dated: New York, New York  
July 19, 2005

  
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JAN TRA GELLIS  
GELLIS & MELINGER, LLP  
Attorneys for Plaintiff  
137 Fifth Avenue  
New York, New York 10010  
(212) 460-5757

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